



STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF)
CSC TKR, INC. D/B/A CABLEVISION OF)
MORRIS FOR A CERTIFICATE OF APPROVAL)
TO OPERATE AND MAINTAIN A CABLE)
TELEVISION SYSTEM IN THE BOROUGH)
OF MENDHAM, COUNTY OF MORRIS,)
STATE OF NEW JERSEY)

CERTIFICATE OF APPROVAL

DOCKET NO. CE01070442

Schenck, Price, Smith and King, Morristown, New Jersey, by James Eric Andrews, Esq., for Petitioner.

Borough Clerk, Borough of Mendham, New Jersey, by Denise V. B. Fuchs, for the Borough.

BY THE BOARD¹:

On July 24, 2001, CSC TKR, Inc. d/b/a Cablevision of Morris ("Petitioner") filed a petition for a Certificate of Approval for the construction and operation of a cable television system in the Borough of Mendham ("Borough"). Petitioner is a New Jersey cable television company franchised in 29 municipalities in Morris and Sussex Counties.

The petition indicates that Petitioner filed an application for municipal consent with the Borough on April 27, 2000, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-11. The Borough held a public hearing on the application, pursuant to N.J.S.A. 48:5A-23(b). The Borough adopted an ordinance granting municipal consent to Petitioner on July 2, 2001. On July 9, 2001, Petitioner formally accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24.

RCN of New Jersey, Inc. ("RCN") is also authorized to provide cable service to the Borough, pursuant to Docket No. 845C-7072. Both Petitioner and RCN have been granted municipal consent to serve the entirety of the Borough.

The Board has reviewed the application for municipal consent, the petition for a Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, the Borough reviewed these qualifications in conjunction with the municipal consent process.

¹ Commissioner Carol J. Murphy did not participate in the deliberations or vote on this matter.

See N.J.S.A. 48:5A-22 to -29 and N.J.A.C. 14:18-11.

2. The design and technical specifications of the system will ensure that Petitioner provides safe, adequate and proper service.
3. The franchise period as stated in the ordinance is ten years. The Office of Cable Television finds this period to be of reasonable duration.
4. Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
5. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
6. Petitioner shall maintain a local business office or agent within a 15 mile radius of the Borough for the purpose of receiving, investigating and resolving complaints. The current local office meeting the requirements of this provision is located at 683 Route 10 in Randolph Township.
7. The franchise fee to be paid to the Borough is specified to be 2% of Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Borough. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
8. Petitioner shall initially construct its cable system in the same areas that RCN is providing service and in those other areas where it is economically reasonable and technically feasible to build. Petitioner shall build to more than 90% of the Borough in the public right-of-way serving two homes per mile by December 31, 2002. After December 31, 2002, Petitioner shall extend cable service along any public right-of-way outside its primary service area to those residences within the franchise territory, which are located in areas that have a residential density of 15 homes per mile or greater. In all other areas, Petitioner shall utilize the line extension policy attached to the Certificate as Appendix "I". The minimum homes per mile figure is 15.
9. Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with its application and the ordinance. Petitioner shall provide one channel for non-commercial community and governmental access, community announcements and videotaped programming of local interest. Petitioner shall provide one channel for non-commercial public, educational and governmental access. Petitioner shall provide some studio and remote video production equipment for use by groups and non-profit organizations for production of community interest programs and specific public service announcements.

10. Petitioner shall provide the Borough with a one time capital contribution in the amount of \$55,000.00 to be used in connection with the development and maintenance of PEG access. Petitioner has agreed with the Borough not to pass through the costs for the capital contribution to subscribers as a separate line item on subscribers' bills.
11. Petitioner shall provide one standard installation and basic monthly service, free of charge, to each of the following public facilities: a) Hilltop School; b) Mountainview School; c) West Morris Mendham High School; d) all municipal buildings, including Garabrant Center, Phoenix House and Bowers Building; e) the police, fire, first aid and public works facilities in the Borough; f) the Borough Free Public Library and any other public library which may be located in the Borough; and g) upon request of the operator of the building, to the designated recreation room of the Mendham Area Senior Housing ("MASH"). Petitioner shall allow the above facilities, with the exception of MASH, to extend service to some or all of the rooms, classrooms and auditoriums, at their own cost, provided that FCC signal leakage standards are met.
12. Petitioner shall provide one free cable modem connection, including standard installation, with free monthly Internet service, to all state or locally accredited K-12 schools and all libraries in the Borough. When high-speed Internet access via cable modem is commercially available to residential customers within the Borough, Petitioner shall provide one free cable modem connection, with free monthly Internet service, to the municipal building (Phoenix House). The Borough shall be permitted to network up to three additional computer terminals in the municipal building to the cable modem provided by Petitioner.
13. Petitioner shall maintain a performance bond of \$25,000.00 for the life of the franchise. For the period of construction, Petitioner shall maintain a performance bond of \$100,000.00.
14. Petitioner shall provide a senior citizen's discount in the amount of 10% of the monthly basic service, to any person 62 years of age or older, and who meets the income and residency requirements of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program.
15. At the request of the Borough, but not more than every 12 months beginning 18 months from the date of this Certificate, Petitioner shall provide a summary report to the Borough of customer service complaints from Borough subscribers. Petitioner shall provide the report in a reasonable time period, not to exceed 90 days from the Borough's request.
16. The Borough and Petitioner shall hold a public evaluation session at the request of the Borough, to be held at the Borough offices. These sessions shall be held no more frequently than every two years as measured from the date of this Certificate. Petitioner or the Borough shall notify the public of such a meeting by appropriate notice. The purpose of the meeting shall be to discuss Petitioner's provision of service in the Borough.

17. Should Petitioner enter into, or renew a franchise with, any Morris County municipality within six months of the date of this Certificate, and the other Morris County municipality acquires more favorable terms than the Borough, Petitioner shall provide the same to the Borough, subject to review and approval by the Board.

It is to be noted here that the Borough's municipal consent ordinance requires an additional performance bond in the amount of \$100,000.00 during the period of construction of the cable system in the Borough. The Cable Television Act requires that, within its application for municipal consent, a cable company must include evidence of a commitment for a performance bond in an amount of not less than \$25,000.00, pursuant to N.J.S.A. 48:5A-28(d). Although the municipality must approve the amount, the sufficiency and reasonableness of the performance bond is subject to review by the Office of Cable Television and approval by the Board. The purpose of this performance bond is to ensure all undertakings as promised in the municipal consent application and the ordinance.

Petitioner has accepted the ordinance in its entirety. The Office of Cable Television has reviewed the request for an additional performance bond and found that since Petitioner has plans to extend cable plant to the entirety of the Borough, the Board should approve the provision for an additional bond in the amount of \$100,000.00 during the period of construction. Therefore, this Certificate of Approval confirms that Petitioner shall provide a performance bond in the amount of \$25,000.00 for the life of the franchise and an additional performance bond in the amount of \$100,000.00 during the period of construction. Upon completion of the construction, Petitioner shall seek certification from the Borough that construction is complete to its satisfaction and subsequently apply to the Office of Cable Television for an administrative reduction of the bonds to the statutory amount of \$25,000.00.

Based upon these findings, the Board HEREBY CONCLUDES, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), that Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, Petitioner is HEREBY ISSUED this Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Borough, subject to the following condition:

Petitioner shall provide the Office of Cable Television with construction status reports every 90 days beginning thirty days from the date of issuance of this Certificate. Reporting shall continue until the construction is completed and the Office of Cable Television notifies Petitioner that no further reports are necessary. The reports shall include, but not be limited to, the following: 1) an account of the total miles projected, both aerial and underground; 2) the total miles yet to be built, both aerial and underground; 3) the number, date(s) of submission and percentage of the total make-ready surveys submitted to the utilities; 4) the number, date(s) received and percentage of the total make-ready received from the utilities; 5) licenses received (e.g., total miles released by utilities); 6) miles of cable strand wire placed; 7) miles of aerial plant constructed; 8) miles of underground plant constructed; 9) total plant constructed; and 10) miles of activated plant.

This Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Certificate is issued on the representation that the statements contained in Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire ten years from the date of this Order.

DATED: November 8, 2001

BOARD OF PUBLIC UTILITIES
BY:

(signed)

CONNIE O. HUGHES
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH
BOARD SECRETARY